

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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THE TRUSTEES OF THE UNITED TEAMSTER
FUND and THE TRUSTEES OF THE UNITED
TEAMSTER PENSION FUND "A"

Plaintiffs,

-against-

M.Y. PRODUCE, INC. and
YOUNG KIM,

Defendants.
-----X

Case No. 07 CV 1425
(TPG)(FM)

**PLAINTIFF'S
APPLICATION FOR
CERTIFICATE OF
DEFAULT AGAINST
DEFENDANTS M.Y.
PRODUCE, INC. AND
YOUNG KIM**

SIRS:

Pursuant to Federal Rules of Civil Procedure 55(a) and Local Civil Rule 55.1, and upon the annexed Affidavit of Milo Silberstein, Esq., dated January 10, 2008, and upon the exhibits annexed thereto, the Summons and Complaint, filed November 20, 2007, and the Affidavits of Service, dated November 29, 2007 and November 30, 2007, the Plaintiffs, the Trustees of the United Teamster Fund and the Trustees of the United Teamster Pension Fund "A," by their attorneys, move this Court for entry of a Default Judgment against Defendants, M.Y. Produce, Inc. and Young Kim, as follows:

(1) on the first cause of action, against Defendant M.Y. Produce, Inc. and Young Kim for an Order in favor of Plaintiffs and against Defendant M.Y. Produce, Inc. and Young Kim in the amount of \$10,448.00 for the remaining balance owed pursuant to the Stipulation and Order of Settlement (the "Stipulation") resolving a lawsuit commenced by the funds on March 9, 2006 against M.Y. Produce, Inc. and Defendant Young Kim captioned The Trustees of the United Teamster Fund and the Trustees of the United Teamster Pension Fund "A" v. M.Y. Produce Inc.

and Young Kim, Case No. 06-CV-1875, plus interest at nine (9%) percent per annum from September 25, 2006, the date of the Stipulation; an amount to be determined, but believed to exceed \$8,292.62 for delinquent contributions for the period of September 2007 through January 2008; reasonable attorney's fees, audit fees, accountant's fees, court costs and expenses incurred by the Plaintiffs in this action; (2) on the second cause of action, against Defendant M.Y. Produce, Inc., for an Order in favor of Plaintiffs and against Defendant M.Y. Produce, Inc. for delinquent contributions for the period of September 2007 through January 2008 in an amount to be determined, but believed to exceed \$8,292.62; statutory interest on the unpaid contributions; liquidated damages at the rate of interest on the unpaid contributions, or twenty (20%) percent of all the unpaid contributions, whichever is greater; reasonable attorneys' fees, accounting fees, and the cost of this action; (3) on the third cause of action for breach of fiduciary duty against Defendant Young Kim, for an Order in favor of Plaintiffs and against Defendant Young Kim for delinquent contributions for the period of September 2007 through January 2008 in an amount to be determined, but believed to exceed \$8,292.62; statutory interest on all of the unpaid contributions; liquidated damages at the rate of interest on all of the unpaid contributions, or twenty (20%) percent of all the unpaid contributions, whichever is greater; reasonable attorneys' fees, accounting fees, and the cost of this action; and for such other and further relief as the Court deems just and proper; and (4) for an Order that the parties thereafter be directed to appear for an inquest to take an account and determine the amount of damages, interest, liquidated damages, expenses, costs, accounting fees, and attorneys' fees to which the Plaintiffs are entitled pursuant to the judgment of this Court.

Dated: New York, New York
January 11, 2008

Respectfully submitted,

DEALY & SILBERSTEIN, LLP

By: 

Milo Silberstein (MS 4637)

*Attorneys for Plaintiffs the Trustees of the
United Teamster Fund and the Trustees of
the United Teamster Pension Fund "A"*

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